



UNITED STATES PATENT AND TRADEMARK OFFICE

JO
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,060	11/07/2005	Andreas Meinke	SONN:080US	5339
32425	7590	09/25/2006	EXAMINER	
FULBRIGHT & JAWORSKI L.L.P. 600 CONGRESS AVE. SUITE 2400 AUSTIN, TX 78701			BASKAR, PADMAVATHI	
			ART UNIT	PAPER NUMBER
			1645	

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/556,060	MEINKE ET AL.	
	Examiner	Art Unit	
	Padmavathi v. Baskar	1645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 38-60 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) ____ is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) 38-60 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) Notice of Informal Patent Application
- 6) Other: ____.

RESTRICTION

1. Applicants amendment filed on 11/7/05 has been entered.

Claims 1-37 have been canceled.

Claims 38-60 have been entered and are pending in the application.

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 38 -44 and 45-54 drawn to hyper-immune serum reactive antigen (*Streptococcus agalactiae*) and a pharmaceutical composition

Further restriction to one SEQ.ID.NO required (see paragraph # 4).

Group II, claims 55-60 , drawn to a method of vaccinating a subject

Further restriction to one SEQ.ID.NO required (see paragraph # 4).

3. The inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special feature technical features for the following reasons:

The technical feature of linking groups appears to be that they are all related to hyper *Streptococcus agalactiae* immune serum reactive antigens.

However, Stalhammar-Carlemalm et al J.Exp.Med. 1993, 177, 1593-1603 disclose hyper immune (anti rabbit IgG) reactive antigen fragment 95kD (see abstract and figures 3, 4,6 and 9). Therefore, the technical feature of linking groups I-II does not constitute a special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art and hence unity of invention is lacking.

The special technical feature of Group I is considered to be antigen , made up of amino acids.

The technical feature Groups II is considered to be method utilizing product that share no common structure, property, function and lack the same or a corresponding special technical feature so as to form a single general inventive concept under Rule 13.1. Hence, unity is lacking among group II

Accordingly, Groups I-II are not so linked by the same or a corresponding special technical feature as to form a single general inventive concept.

DISTINCT INVENTIONS

4. For each group of inventions I-II above, restriction to one of the following SEQ.ID.NO is also required under 35 U.S.C. 121 and 372. Therefore, election is required of one of inventions I-II and one of SEQ ID NO: 218-434, 449-462 or 475-486 Invention SEQ ID NO: SEQ ID NO: 218-434, 449-462 or 475-486 are not so linked as to under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The claimed antigens SEQ ID NO: 218-434, 449-462 or 475-486 share no common special technical feature because the antigens have no common structure (i.e., no common sequence) and are not linked by the same the same or a corresponding special technical feature as to form a single general inventive concept. Therefore, where structural identity is required, such as expression of protein or binding of antibody, each sequence appears to be structurally different and induce a specific immune response . Thus they share no common structure and function so as to form a single general inventive concept under Rule 13.1. Hence, unity is lacking among SEQ ID NO: SEQ ID NO: 218-434, 449-462 or 475-486

Applicant is required under Restriction is required under 35 U.S.C. 121 and 372 to elect a single disclosed SEQ.ID.NO from any group elected.

5. This application contains claim 50 directed to the following patentably distinct species: immunostimulatory substance is a polycationic polymer, an immunostimulatory deoxynucleotide (ODM), a peptide containing at least two Lys-Leu-Lys motifs, a neuroactive compound, alum, or a Freund's complete or incomplete adjuvant. The species are independent or distinct because each immunostimulatory molecule is structurally and functionally are different and distinct.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted . If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

6. Applicant is required in reply to this action to elect a group , one sequence SEQ.ID.NO and one immunostimulatory substance and identify to which the claims shall be restricted. The reply must also identify the claims readable on the elected invention, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

7. Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform to the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The Right Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PMR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Padma Baskar Ph.D., whose telephone number is ((571)

Art Unit: 1645

272-0853. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 6.30 a.m. to 4.00 p.m. except First Friday of each bi-week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on (571) 272-0864. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.


Padma Baskar Ph.D.

SUSAN UNGAR, PH.D
PRIMARY EXAMINER

